

**SMITH & LOWNEY, P.L.L.C.**

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July 11, 2014

**RECEIVED**

JUL 15 2014

**Via Certified Mail - Return Receipt Requested**

Administrator Gina McCarthy  
United States Environmental Protection Agency  
Ariel Rios Building, Mail Code 1101A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

DEPARTMENT OF ECOLOGY  
OFFICE OF DIRECTOR

**Re: Notice of intent to sue for failure to perform non-discretionary duty under the Clean Air Act to respond to petitions requesting that the Administrator object to the Title V operating permit for the U.S. Department of Energy Hanford Site, Permit No. 00-05-006, Renewal 2 and Renewal 2, Revision A**

Dear Administrator McCarthy:

This letter is served upon you under Section 304(b) of the Clean Air Act, 42 U.S.C. § 7604(b), and 40 C.F.R. § 54, and provides you with sixty days notice of intent to sue by Bill Green ("Petitioner"), 424 Shoreline Ct., Richland, WA 99354, (509) 375-5443, for your failure to respond within sixty days to the above-referenced timely submitted petitions. Any response to this notice of intent to sue should be directed to Petitioner's counsel, the undersigned.

You have violated your non-discretionary duty by failing to grant or deny the Petitioner's request that you object to Title V Air Operating Permit No. 00-05-006, Renewal 2, for the U.S. Department of Energy Hanford Site, which was received by EPA from the Washington Department of Ecology on or about February 14, 2013. EPA did not object to the proposed permit within 45 days of receipt and, on April 23, 2013, Petitioner submitted a petition requesting that EPA object within the next 60 days. Section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2), instructs the Administrator of EPA to respond to such a petition within sixty days of receipt. It is now more than a year past the sixty-day deadline, and you and the EPA have failed to act on Petitioner's request and are thus in violation of your non-discretionary duty to respond. 42 U.S.C. § 7661d(b)(2).

Similarly, you have violated your non-discretionary duty by failing to grant or deny the Petitioner's request that you object to Title V Air Operating Permit No. 00-05-006, Renewal 2, Revision A, for the U.S. Department of Energy Hanford Site, which was received by EPA from the Washington Department of Ecology on or about February 13, 2014. EPA did not object to the proposed permit within 45 days of receipt and, on April 21, 2014, Petitioner submitted a petition requesting that EPA object within the next 60 days. Section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2), instructs the Administrator of EPA

to respond to such a petition within sixty days of receipt. It is now several weeks past the sixty-day deadline, and you and the EPA have failed to act on Petitioner's request and are thus in violation of your non-discretionary duty to respond. 42 U.S.C. § 7661d(b)(2).

Section 505(b)(2) of the Clean Air Act provides that if the "Administrator does not object to the issuance of a permit pursuant to paragraph (1), any person may petition the Administrator within 60 days after the expiration of the 45-day review period specified in paragraph (1) to take such action." 42 U.S.C. § 7661d(b)(2). Following receipt of such a petition, "the Administrator shall grant or deny such petition within 60 days after the petition is filed." *Id.*

Where there is a failure by the Administrator to perform a non-discretionary act or duty under the Clean Air Act, a civil action is available to enjoin such action. 42 U.S.C. § 7604(a)(2). Accordingly, at the close of sixty days from the postmark date of this notice of intent to sue, the Petitioner intends to file suit against you and EPA in federal district court under Section 304 of the Clean Air Act, 42 U.S.C. § 7604(a)(2), seeking declaratory relief, an injunction requiring prompt action on the Petitioner's petitions that is overdue, and an award of litigation expenses.

If you have questions or would like to discuss this matter, please contact me.

Very truly yours,

SMITH & LOWNEY, PLLC

By: 

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cc: Dennis McLerran, Region 10 Administrator, U.S. EPA  
Maia Bellon, Director, Washington Department of Ecology